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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-129; A-552-830]

Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 15, 2020.

FOR FURTHER INFORMATION CONTACT: Erin Kearney at (202) 482-0167; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 26, 2020, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain walk-behind lawn mowers (lawn mowers) from the People's Republic of China (China) and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the petitioner,¹ a domestic producer of lawn mowers.² The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of lawn mowers from China.³

¹ The petitioner is MTD Products Inc.

² See Petitioner's Letter, "Petitions for the Imposition of Antidumping Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam and Countervailing Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China," dated May 26, 2020 (the Petitions).

³ *Id.*

On May 29, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.⁴ On June 2, 2020, the petitioner filed responses to the supplemental questionnaires.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of lawn mowers from China and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic lawn mower industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting the allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act.

Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.⁶

⁴ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: General Issues Supplemental Questions" (General Issues Supplemental); "Petition for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Supplemental Questions"; and "Petition for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the Socialist Republic of Vietnam: Supplemental Questions," all dated May 29, 2020.

⁵ See Petitioner's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China: General Issues Supplemental Questions Response Volume I" (General Issues Supplement); "Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the People's Republic of China: Supplemental Questionnaire Response Volume III" (China AD Supplement); and "Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the Socialist Republic of Vietnam: Supplemental Questionnaire Response Volume III" (Vietnam AD Supplement), all dated June 2, 2020.

⁶ See the Petitions at section on "Determination of Industry Support for the Petitions."

Period of Investigation

Because China and Vietnam are non-market economy (NME) countries, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the investigations is October 1, 2019 through March 31, 2020.

Scope of the Investigations

The products covered by these investigations are lawn mowers from China and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On May 29, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ On June 2, 2020, the petitioner revised the scope.⁸ The description of the merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁹ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information, all such factual information should be limited to public information.¹⁰ To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on July 6, 2020, which

⁷ *See* General Issues Supplemental at 3-4.

⁸ *See* General Issues Supplemental at Exhibit S-I-3.

⁹ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁰ *See* 19 CFR 351.102(b)(21) (defining "factual information").

is the next business day after 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 16, 2020, which is 10 calendar days from the initial comment deadline.¹²

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹³ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of lawn mowers to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the

¹¹ Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, May 11, 2020). *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

¹² *See* 19 CFR 351.303(b).

¹³ *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 6, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹⁴ Any rebuttal comments must be filed by 5:00 p.m. ET on July 16, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of both of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as

¹⁴ See 19 CFR 351.303(b). Commerce practice dictates that where a deadline falls on a weekend or Federal holiday (in this instance, July 5, 2020), the appropriate deadline is the next business day. See *Next Business Day Rule*, 70 FR at 24533.

required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁵ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁶

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.¹⁷ Based on our analysis of the information submitted on the record, we have determined that lawn mowers, as defined in the

¹⁵ See section 771(10) of the Act.

¹⁶ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

¹⁷ See Volume I of the Petitions at 18-24.

scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁸

On June 10, 2020, we received comments on industry support from Sumec Hardware & Tools Co., Ltd. (Sumec), a Chinese producer of subject merchandise, and Merotec Inc (Merotec), an importer of subject merchandise.¹⁹ The petitioner responded to the industry support comments on June 11, 2020.²⁰ On June 12, 2020, we received surrebuttal comments from Sumec and Merotec with regard to the petitioner's June 11, 2020 comments.²¹ The petitioner responded to these surrebuttal industry support comments on June 15, 2020.²²

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in the appendix to this notice. To establish industry support, the petitioner provided its 2019 shipments of the domestic like product.²³ To estimate the 2019 shipments for the entire U.S. lawn mowers industry, the petitioner relied on 2019 shipment data reported by the Outdoor Power Equipment Institute and

¹⁸ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* the China and Vietnam AD Initiation Checklists at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam (Attachment II). These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS.

¹⁹ *See* Sumec and Merotec's Letter, "Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Request to the Department to Poll the Industry," dated June 10, 2020.

²⁰ *See* Petitioner's Letter, "Investigations on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China, Inv. Nos. 731-1521-1522 and 701- TA-648 (Preliminary): Response to Sumec Hardware & Tools Co., Ltd.'s Request to the Department to Poll the Industry," dated June 11, 2019.

²¹ *See* Sumec and Merotec's Letter, "Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Reply to Petitioner's Response to the Request to Poll the Industry," dated June 12, 2020.

²² *See* Petitioner's Letter, "Investigations on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China, Inv. Nos. 731-1521-1522 and 701- TA-648 (Preliminary): Response to Sumec Hardware & Tools Co., Ltd.'s Reply to Petitioner's Response to the Request to Poll the Industry," dated June 15, 2019.

²³ *See* Volume I of the Petitions at 4-5 and Exhibit I-2; *see also* General Issues Supplement at 7 and Exhibit S-I-5.

made certain adjustments to reflect total shipments by U.S. producers of lawn mowers.²⁴ The petitioner estimated the production of the domestic like product for the entire domestic industry based on shipment data, because production data for the entire domestic industry were not available to the petitioner, and shipments are a close approximation of production in the lawn mowers industry.²⁵ We relied on data provided by the petitioner for purposes of measuring industry support.²⁶ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁷

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁸

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and suppression; lost sales and revenues; declines in shipments, capacity utilization, and capital expenditures; plant closures and declines in employment variables; declining profitability; and the magnitude of dumping.²⁹ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility,

²⁴ See Volume I of the Petitions at 4-5 and Exhibits I-1, I-2, and I-23; see also General Issues Supplement at 7 and Exhibit S-I-5.

²⁵ See Volume I of the Petitions at 4-5 and Exhibit I-23.

²⁶ See Volume I of the Petitions at 4-5 and Exhibit I-2; see also General Issues Supplement at 7 and Exhibit S-I-5. For further discussion, see Attachment II of the China and Vietnam AD Initiation Checklists.

²⁷ *Id.*

²⁸ See Volume I of the Petitions at 24-25 and Exhibit I-8.

²⁹ See Volume I of the Petitions at 27-40 and Exhibits I-8 through I-11 and I-20 through I-22, and I-24; see also General Issues Supplement at 2 and Exhibit S-I-1.

and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³⁰

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of lawn mowers from China and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China and Vietnam AD Initiation Checklists.

U.S. Price

For both China and Vietnam, the petitioner based export price (EP) on two methodologies: (1) the average unit values (AUVs) of publicly-available import data adjusted to deduct foreign inland freight expenses; and (2) a transaction-specific AUV derived from official import data and tied to ship manifest data obtained from Datamyne.³¹

Normal Value

Commerce considers China and Vietnam to be NME countries.³² In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China and

³⁰ See the China and Vietnam AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam (Attachment III).

³¹ See the China and Vietnam AD Initiation Checklists.

³² See, e.g., *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at "China's Status as a Non-Market Economy," unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018); and *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

Vietnam as NME countries for purposes of the initiation of these investigations. Accordingly, NVs in China and Vietnam are appropriately based on FOPs valued in surrogate market economy countries, in accordance with section 773(c) of the Act.

With respect to China, the petitioner argues that the Republic of Turkey (Turkey) is an appropriate surrogate country because Turkey is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.³³ The petitioner submitted publicly available information from Turkey to value all FOPs.³⁴ Based on the information provided by the petitioner, we determine that it is appropriate to use Turkey as a surrogate country for China for initiation purposes.

For Vietnam, the petitioner claims that India is an appropriate surrogate country because India is a market economy country that is at a level of economic development comparable to that of Vietnam and is a significant producer of comparable merchandise.³⁵ The petitioner provided publicly available information from India to value all FOPs.³⁶ Based on the information provided by the petitioner, we determine that it is appropriate to use India as a surrogate country for Vietnam for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

³³ See Volume II of the Petitions at 3 and Exhibit II-2.

³⁴ *Id.* at Exhibits II-3, II-14 – II 16.

³⁵ See Volume III of the Petitions at 3-4 and Exhibit III-1.

³⁶ *Id.* at Exhibit III-11.

For China and Vietnam, the petitioner used its own product-specific consumption rates as a surrogate to value Chinese and Vietnamese manufacturers' FOPs.³⁷ Additionally, the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of Turkish and Indian producers of comparable merchandise.³⁸

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of lawn mowers from China and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for lawn mowers from China are 274.29 – 313.58 percent, and 289.63 – 416.00 percent for lawn mowers from Vietnam.³⁹

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of lawn mowers from China and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

³⁷ See Volume II of the Petitions at 3 and Exhibits II-9 and II-10; and Volume III of the Petitions at 7 and Exhibits III-9 and III-10.

³⁸ See Volume II of the Petition at 9 and Exhibits II-3 and II-12; Volume III of the Petitions at 4-5 and Exhibit III-18; China AD Supplement at Exhibit S-II-3; and Vietnam AD Supplement at 2 and Exhibit S-III-3.

³⁹ See China AD Supplement at Exhibit S-II-6; and Vietnam AD Supplement at Exhibit S-III-4.

Respondent Selection

In the Petitions, the petitioner named 46 companies in China and three companies in Vietnam as producers/exporters of lawn mowers.⁴⁰

In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large, and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. For Vietnam, because there are three producers and exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address. However, because there are 46 producers and exporters for China identified in the Petitions, Commerce has determined to limit the number of Q&V questionnaires that it will send out to exporters and producers based on U.S. Customs and Border Protection (CBP) data for lawn mowers from China during the POI under the appropriate Harmonized Tariff Schedule of the United States number listed in the “Scope of the Investigation,” in the appendix. Accordingly, Commerce will send Q&V questionnaires to the largest producers and exporters that are identified in the CBP data for which there is address information on the record.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on E&C’s website at <http://www.trade.gov/enforcement/news.asp>. Producers/exporters of lawn

⁴⁰ See Volume I of the Petitions at 2 and Exhibit I-5.

mowers from China and Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from E&C's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese and Vietnamese producers/exporters no later than 5:00 PM ET on July 1, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS.

On June 10, 2020, Commerce released CBP data on imports of lawn mowers from China under administrative protective order (APO) to all parties with access to information protected by APO, and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.⁴¹ We further stated that we will not accept rebuttal comments.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at <http://enforcement.trade.gov/apo>.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

⁴¹ See Memorandum, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Release of Customs Data from U.S. Customs and Border Protection," dated June 10, 2020.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁴² The specific requirements for submitting a separate-rate application in a China or Vietnam investigation are outlined in detail in the application itself, which is available on E&C's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁴³ Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China or Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of

⁴² See Policy Bulletin 05.1: "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries," (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁴³ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.⁴⁴

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of China and Vietnam via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of lawn mowers from China and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁴⁵ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁴⁶ Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

⁴⁴ See Policy Bulletin 05.1 at 6 (emphasis added).

⁴⁵ See section 733(a) of the Act.

⁴⁶ *Id.*

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴⁷ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁴⁸ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from

⁴⁷ See 19 CFR 351.301(b).

⁴⁸ See 19 CFR 351.301(b)(2).

multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁴⁹ Parties must use the certification formats provided in 19 CFR 351.303(g).⁵⁰ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for

⁴⁹ See section 782(b) of the Act.

⁵⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

serving documents containing business proprietary information, until July 17, 2020, unless extended.⁵¹

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 15, 2020.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

⁵¹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 29615 (May 18, 2020).

Appendix

Scope of the Investigations

The merchandise covered by these investigations consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of these investigations covers certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of these investigations are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts. These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission Safety Standard For Walk-Behind Power Lawn Mowers under the 16 CFR part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR part 1205 remain subject to the scope of these proceedings.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR part 1054 or other parts of subchapter U remain subject to the scope of these proceedings.

For purposes of these investigations, an unfinished and/or unassembled lawn mower means at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of these investigations. The inclusion in a third country of any components other than the mower sub assembly does not remove the lawn mower from the scope. A lawn mower is within the scope of these investigations regardless of the origin of its engine.

The lawn mowers subject to these investigations are typically at subheading: 8433.11.0050. Lawn mowers subject to these investigations may also enter under Harmonized Tariff Schedule of the United States (HTSUS) 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

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